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Office Memorandum • UNITED STATES GOVERNMENT

TO : Chief, Administrative Staff
 THRU : General Counsel
 FROM : Budget Officer

DATE: 14 September 1950

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SUBJECT: Overtime, Holiday and Night Differential Payments

1. The questions raised in the basic memorandum applicable to the above subject from the Chief, Payroll Branch, to the Chief, Fiscal Division, under date of 31 August 1950, has been studied by this office and it is believed that there are certain considerations which should be presented at this time in order that basic determinations can be made and appropriate regulations issued.

2. It appears that 28 C.G. 405 will throw some light on the basic questions presented since it is indicated in that decision that the determination as to whether or not an employee comes within the Act of 1934 for overtime pay purposes would depend at least, in part, on whether the Classification Act is administratively adopted as the basis for "compensation fixing" as distinguished from those cases where the Classification Act is required by law to be applied in fixing compensation. It appears that in the case of CIA employees under present procedures and Agency policy that the controlling factor is basically one of procedures or methods in fixing compensation as distinguished from "authority to fix compensation". Since the Agency has adopted the Classification Act and the applicable rates as a means of establishing salary rates, those employees who are allocated to basic grades and steps set forth in the Classification Act of 1949 (Public Law 429) would apparently not be considered as employees who were being paid in accordance with wage board determinations.

3. The comments set forth by the Comptroller General in his letter of 15 November 1949 to the Director of Central Intelligence are of interest with respect to this problem from two viewpoints i.e. (1) the obvious indication that under the authority of Public Law 110 and the exemption under Public Law 429 the Director of Central Intelligence has adequate authority to establish and/or pay such salary rates as he determines appropriate and (2) the fact that the Agency head has approved certain positions at so-called super grades which are required to be approved by the Civil Service Commission under the provisions of Public Law 429 for non-exempt agencies. With regard to the second item it may be that there exists a slight contradiction from a regulatory viewpoint in

that is the proper and uniform practice to fixing rates of pay but also for determining aid with respect to overtime, holiday and that we should take the attitude that it was the policy at the time Public Law 429 was passed that classification schedules insofar as allocations were concerned. If, in the light of the

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fact that certain super grades have been established, we are in a firm position to hold that such has been the policy of the Agency under the authority granted the Director, it would appear that existing Agency regulations and policies should be clarified for the benefit and protection of paying and certifying officers in connection with both vouchered and unvouchered activities.

5. As soon as further considerations have been given to this problem this office will be pleased to assist in developing the necessary regulations or instructions. The provisions of Administrative Instructions Nos. [] throw some light on the Agency policy and intent with respect to adherence to the Classification Act.

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